

RESOLUTION NO. 2007- ~~1754~~

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN APPLICATION SUBMITTED BY 9501 COLLINS AVENUE, LLC, ("APPLICANT") AND PROPERTY OWNER(S) OF THE PROPERTY LOCATED AT 9501 COLLINS AVENUE, LEGALLY DESCRIBED AS LOT 1, BLOCK 2, SUBDIVISION ALTOS DEL MAR NO. 6, FOLIO #14.2235.007.0110 ("PROPERTY"), FOR A VARIANCE FROM THE PROVISIONS OF CHAPTER 90, SECTION 155 OF THE TOWN CODE FOR A LOT WIDTH OF 55 FEET, WHICH IS A VARIANCE OF 45 FEET, WHERE A MINIMUM LOT WIDTH OF 100 FEET IS REQUIRED AND A SOUTH SIDE CORNER YARD SETBACK OF 10 FEET, WHICH IS A VARIANCE OF 10 FEET WHERE A MINIMUM SOUTH SIDE CORNER YARD SETBACK OF 20 FEET IS REQUIRED, SUBJECT TO CERTAIN CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-155 of the Code of Ordinances provides for a minimum lot width requirement of 100 feet and a minimum side corner setback requirement of 20 feet for multifamily development within the RT-1 Zoning District; and

WHEREAS, Section 90-91 of the Code of Ordinances provides for variance application and review; and

WHEREAS, the applicant has applied for two variances from Section 90-155 of the Code, (1) to allow a lot width of 55 feet where a minimum lot width of 100 feet is required; and (2) to allow a side corner setback of 10 feet where a minimum side corner setback of 20 feet is required on the Property ("Application"); and

WHEREAS, the Town Planner recommends approval of the variance requests; and

WHEREAS, on April 10, 2007, the Town Commission conducted a public hearing on the Application for which a hearing was noticed, posted, advertised and held as required by law,

all interested parties concerned in the matter were heard, and due and proper consideration was given to the matter and to the positive recommendation by the Town Planner; and

WHEREAS, the Town Commission, having reviewed the application, the written and oral recommendations of the Town's professional planning staff, and all other relevant testimony and evidence, including the applicant's voluntarily proffers, finds that the Application is in compliance with the Town's land development regulations and comprehensive plan.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, THAT THIS RESOLUTION SHALL BE APPLICABLE TO THE APPLICANT, ITS SUCCESSORS AND/OR ASSIGNS, AS FOLLOWS:

Section 1. **Incorporation of Recitals.** That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. **Variance 1.** That it finds that the requested variance, with conditions, from the lot width requirement of Section 90-155 of the Code of Ordinances is in substantial compliance with Section 90-91 of the Code of Ordinances.

Section 3. **Variance 2.** That it finds that the requested variance, with conditions, from the minimum side corner setback requirement of Section 90-155 of the Code of Ordinances is in substantial compliance with Section 90-91 of the Code of Ordinances.

Section 4. **Conditions.** That the approvals granted by this resolution are subject to the applicant's compliance with the following conditions, which the applicant voluntarily proffered and stipulated to at the public hearing:

1. The applicant shall demolish the existing building on the site within ninety (90) days of the date of this approval. If no building permit is issued for construction of a principal

building on the site within six (6) months of the date of this approval, the applicant shall landscape and screen the site in accordance with the Code of Ordinances, and shall otherwise comply with all property maintenance requirements of the Code.

2. The proposed structure shall be constructed to the Silver certification standard of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System.TM

3. The landscaping of the site along the right-of-way of 95th Street shall be consistent with the recommendations of the Town of Surfside Charrette.

4. The applicant shall make a contribution, not to exceed \$50,000, prior to the issuance of a building permit, towards landscaping to be installed within the right-of-way along 95th Street from the beachfront to Harding Avenue, consistent with the recommendations of the Town of Surfside Charrette.

5. The applicant shall pay, as cost recovery pursuant to Section 90-17 of the Code of Ordinances, all fees associated with the professional services rendered in the review and processing of this application.

6. The applicant shall execute and record a restrictive covenant consistent with the agreement between the applicant and 9500 Oceans Condominium Association, Inc. No building permit shall be issued for the development of the proposed project until such time as the covenant is executed, delivered, and recorded. Notwithstanding the foregoing, it shall be the obligation of the parties, and not the Town, to specifically enforce the obligations of that covenant, and the Town is hereby indemnified from any liability or damages arising from the failure to enforce same.

7. These variances are effective solely for purposes of the project depicted in the applicant's plans submitted to the Town Planner on March 5, 2007, and for no other purpose, and

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the project must be developed substantially in accordance with those plans approved by the Town Commission.

8. In the event that the applicant desires to develop the subject property in a manner other than in substantial compliance with the plans submitted to the Town Planner on March 5, 2007, the variances shall be deemed never to have been granted, and shall become null and void. The property shall automatically revert to the development status it had prior to this approval.

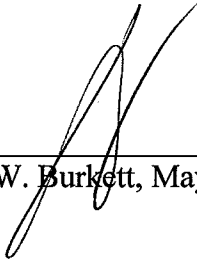
9. The applicant shall comply with all conditions and permit requirements of the Miami-Dade County Department of Environmental Resource Management, the Miami-Dade County Fire Rescue Department, the Miami-Dade County Water and Sewer Department, the Florida Department of Environmental Protection, the Florida Department of Transportation, and all other governmental agencies with jurisdiction over this project.

10. As provided in Section 90-93 of the Code, approval of these variances shall lapse one year from the effective date if a building permit has not been issued, or if no substantial construction or change of use has taken place in accordance with the plans for which the variance was granted. However, the Town Commission may grant an extension of up to one year prior to the expiration of the original approvals.

Failure by the Town to timely enforce any of the above conditions does not constitute a waiver of same, and if the applicant, its successor, or assigns do not perform such conditions within five (5) days after written notice, the Town reserves the right to stop construction, if necessary, until that condition is met. By acting in accordance with this approval, the applicant hereby consents to all of the foregoing terms and conditions.

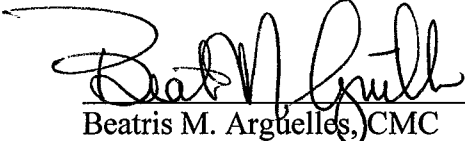
Section 5. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED and **ADOPTED** on this 10th day of April, 2007.



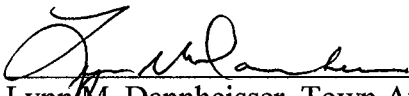
Charles W. Burkett, Mayor

Attest:



Beatris M. Arguelles, CMC
Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney